

## JUNE, 1843.

**At the General Assembly of the STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,** begun and holden by adjournment, at Newport, within and for said State, on the third Monday of June, in the year of our Lord one thousand eight hundred and forty-three, and of Independence the sixty-seventh.

### PRESENT :

**His Excellency JAMES FENNER, Governor :**

**His Honor BYRON DIMAN, Lieutenant Governor.**

### SENATORS FROM THE SEVERAL TOWNS :

Newport,	EDWARD W. LAWTON.
Providence,	ALBERT C. GREENE,
Portsmouth,	JOHN MANCHESTER.
Warwick,	JOHN BROWN FRANCIS.
Westerly,	
New-Shoreham,	SIMON R. SANDS.
North-Kingstown,	JEFFREY DAVIS.
South-Kingstown,	ELISHA R. POTTER.
East-Greenwich,	WILLIAM GREENE.
Jamestown,	GEORGE C. CARR.
Smithfield,	ISAAC WILKINSON.
Scituate,	JOB RANDALL.
Glocester,	SAMUEL STEERE.
Charlestown,	ASA CHURCH, Jun.
West-Greenwich,	GEORGE DAWLEY.
Coventry,	ELISHA HARRIS.
Exeter,	SAMUEL PHILLIPS.
Middletown,	JOSEPH I. BAILEY.
Bristol,	NATHANIEL BULLOCK.
Tiverton,	DAVID DURFEE.
Little-Compton,	NATHANIEL CHURCH.
Warren,	JOSEPH SMITH.
Cumberland,	OLNEY BALLOU.
Richmond,	ISRAEL ANTHONY.
Cranston,	ANSON POTTER.
Hopkinton,	JOSIAH W. LANGWORTHY.
Johnston,	CYRUS BROWN.
North-Providence,	LEVI C. EATON.
Barrington,	JAMES BOWEN.
Foster,	SAMUEL TILLINGHAST.
Burrillville,	OTIS WOOD.

### *THE SECRETARY.*

**GEORGE RIVERS, Esq. Clerk.**

# MILITIA LAW.

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## STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.

*In General Assembly, June Session, A. D. 1843.*

AN ACT TO REGULATE THE MILITIA.

*It is enacted by the General Assembly as follows :*

### *Of the Enrolled Militia.*

Section 1. Every able bodied white male citizen, in this State, who is or shall be of the age of eighteen years, and not exceeding the age of forty-five years, excepting persons absolutely exempted by the provisions of this act, and idiots, lunatics, common drunkards, paupers, vagabonds, and persons convicted of any infamous crime, shall be enrolled in the militia, as hereinafter provided.

Sec. 2. In addition to the persons exempted from military duty by the act of Congress, there shall also be exempted from the performance of such duty, the following persons to wit: all persons who have holden the office of Governor, or Lieutenant Governor; all persons who, after the last day of February, A. D. 1796, shall have holden any military commission or commissions, or staff office, with the rank of an officer of the line, for the space of five years successively, and who shall have been engaged thereon according to law, and been honorably discharged; and also all persons who shall have holden any such military commission or commissions, or staff office aforesaid, for a less term than five years, and who have been superseded without their consent.

Sec. 3. Persons of the following descriptions, as long as they shall remain of said descriptions, shall be exempted from the performance of military duty, to wit: the justices and clerks of the supreme judicial court, the justices and clerks of

the courts of common pleas, the Secretary of State, the Attorney General, the General Treasurer, the sheriff of each county, one ferryman at each stated ferry, who usually navigates the boat, the keepers of light houses within this State, all settled or ordained ministers of the gospel, the president, professors, tutors, students, and steward of Brown University, the town councils of the several towns, the Mayor and Aldermen of the city of Providence, town and city treasurers, town and city clerks, practising physicians, practising surgeons—not including the pupils of either—preceptors and ushers of academics and schools, and engine men ; and provided that no engine shall have more than twenty men, unless otherwise provided by special enactment ; the members of fire hook and ladder companies, and chartered fire hose companies ; all persons belonging to the Society of Friends, commonly called Quakers, and the inhabitants of the towns of New-Shoreham and Jamestown, and of the island of Prudence, and such others as shall make oath or affirmation that they are conscientiously scrupulous against bearing arms, which fact shall appear to the commanding officer, by certificate of the magistrate before whom said oath or affirmation was given.

Sec. 4. It shall be the duty of the assessors of taxes in each town in this State, and in the city of Providence, annually to prepare a list or roll of all persons liable to be enrolled in the militia, as provided in the first section, together with all persons liable to do duty in case of invasion, insurrection, riot, and tumult, living within their respective limits, whether such persons be or be not attached to any chartered or regimental companies ; and to place the same in the hands of the town clerk of such town, and of the said city of Providence, and it shall be the duty of every such clerk to record such list or roll of names in a proper book of record, to be kept for that purpose, in every town in this State, and in the city of Providence. Annual returns of the militia, thus enrolled, shall be transmitted to the Adjutant General in the month of October, in each and every year, by the clerks aforesaid, and by him to the President of the United States. It shall also be the duty of said assessors to assess upon the persons liable to be enrolled in the militia as aforesaid, except in the towns of New Shoreham and Jamestown, and that portion of the town of Portsmouth forming the island of Prudence, a tax of fifty

cents each annually, distinguishing said tax in their assessment, as a tax in commutation of military duty, which tax shall be collected with the State taxes, on property of said person, if any; and if none, then with the town taxes, if any, in the same manner as by law is provided for the collection of State and town taxes; and if no property tax be assessed against him, then this tax shall be collected in manner aforesaid, by itself. The several collectors of taxes shall be entitled to retain five per cent. of the amount of this tax, so by them collected, in full compensation for their services for collection, and they are hereby required to keep by itself this tax assessed and collected for militia duty, and to pay over the same to the General Treasurer on or before the first day of January in each year. No such tax shall be collected of any person who holds a military commission, or who shall produce a certificate from the commanding officer of a regimental company, that he has been enrolled and done duty therein according to law for at least one day within a year preceding the assessment of said tax, or who, whether as a commissioned officer, non-commissioned officer or private, has, within the terms of this act, been superseded or honorably discharged.

Sec. 5. Every keeper of a tavern or boarding-house, and every master or mistress of a family or dwelling house, shall, upon application of the assessors of taxes of the town or city within which such tavern or house is situated, or on application of any person acting under the direction and authority of such assessors, give information of the names of all persons residing in such tavern or house, liable to enrollment, or to do military duty.

Sec. 6. If any non-commissioned officer or private shall become a pauper, vagabond or common drunkard, or be convicted of any infamous crime, he shall be forthwith disenrolled from the militia.

#### *Of the Active Militia.*

Sec. 7. The active militia of this State shall consist and be composed of the several chartered corps now existing, who shall within sixty days after the passage of this act, voluntarily accept by vote the provisions of this act, and communicate the same to the Adjutant General, which acceptance shall be irrevocable, and of all military companies which may be hereafter

chartered. Said companies shall be drilled and disciplined as battalions as well as companies, and as the peace establishment of the State, and as nurseries of officers, shall be called regimental companies, or reduced regiments. The active militia shall in all cases be first ordered into service in case of war or invasion, or to prevent invasion, or to suppress insurrection, riot or tumult, or to aid civil officers in the execution of the laws of the State.

Sec. 8. Whenever forty men shall have enrolled themselves as a corps of artillery or infantry, or thirty-two men as a corps of cavalry, and have been uniformed as hereinafter required, and it shall be made to appear to the General Assembly that they are desirous to serve the State, as a portion of the military force thereof, they shall be entitled to a charter in conformity with the system by this act established; *Provided, however*, that the number of such companies shall not exceed thirty, and that hereafter they shall be formed in the proportion of one regimental company to five hundred enrolled militia in the several towns or districts where such companies may be located, including in such proportion, the existing companies: and *provided further*, that every such regimental company may admit members to the number of five hundred, any thing in the charters of said companies to the contrary notwithstanding.

Sec. 9. Whenever any corps of the active militia hereafter chartered, shall at any time be destitute of commissioned officers, and having been twice ordered to fill vacancies, shall neglect or refuse to fill them, or shall be reduced to a less number than twenty privates in a corps of cavalry, or thirty in a corps of infantry or artillery, and remain so reduced for three months, such corps may be disbanded by the General Assembly.

#### *Organization.*

Sec. 10. The whole militia of this State shall be arranged in one division; the militia of the county of Newport shall form the first brigade: the militia of the county of Providence the second: the militia of the county of Washington the third: the militia of the county of Kent the fourth: and the militia of the county of Bristol the fifth brigade.

Sec. 11. The brigades shall consist of the several regimental companies or reduced regiments, in their respective limits, now existing, or hereafter to be raised. The said regimental companies or regiments shall be numbered through the divis-

ion according to the dates of their respective charters. In compensation for their services, every member of the active militia who shall be returned to the General Treasurer, as hereinafter provided, as having done military duty four times in the year next preceding the return, in any regimental company in this State, shall be entitled to an equal proportional part of the tax for militia duty collected and paid into the General Treasury as aforesaid, not exceeding the sum of five dollars a year to each man. In the month of January of each year the General Treasurer shall apportion the sum received as a tax for militia duty, as aforesaid, amongst the active militia, and issue certificates to the members of the several regimental companies returned as hereinafter provided, payable to their individual order, for their proportional part of the whole amount of said tax by him received, not exceeding five dollars per man as aforesaid, *Provided however*, the members of no existing chartered company of this State, who shall not accept the provisions of this act, and conform thereto, shall be entitled to receive the compensation aforesaid.

Sec. 12. Every non-commissioned officer and soldier, of any regimental company who shall have done duty therein, according to law for the term of seven years, from the time of his enlistment, and shall have received an honorable discharge, shall not be compelled to do duty in the militia, except in time of war or invasion, or to prevent an invasion, or of insurrection, riot or tumult. Such discharge upon the completion of the term of service aforesaid, shall be given by the commanding officer of the brigade, upon the application of the commanding officer of the regimental company to which such private or non-commissioned officer may belong.

#### *How Officered.*

Sec. 13. The officers and non-commissioned officers of the militia shall be as follows, to wit: the Governor, for the time being, shall be Captain-General and Commander-in-Chief; and he shall command, except when the militia shall be called into the service of the United States; and he shall be entitled to appoint his own aids, with the rank of Colonel. There shall be one Major General, two aids of the Major General, with the rank of Major, and a Military Secretary, with the rank of Captain; one Division Inspector with the rank of Lieutenant

Colonel; one Adjutant General, with the rank of Brigadier General; one Quarter-master General, with the rank of Brigadier General: The Adjutant General and the Quarter-master General, with the assent of the Commander-in-Chief, to appoint a sufficient number of assistants with the rank of Captain; one Commissary General, with the rank of Colonel; one Paymaster General, with the rank of Colonel; one Surgeon General, to appoint, with the assent of the Commander-in-Chief, a sufficient number of assistants; one Purveyor General of Hospitals. To each Brigade there shall be one Brigadier General; one Aid, with the rank of Captain; one Brigade Inspector, who is also to serve as Brigade Major, with the rank of Major; one Brigade-Quarter Master, with the rank of Captain. To each regimental company or regiment, there shall be one Colonel, one Lieutenant Colonel, one Major, one Adjutant, with the rank of Captain, one Quarter-master, one Paymaster, each with the rank of Lieutenant; one Surgeon, one Chaplain, one Sergeant Major and one Sergeant-Quarter-Master, one Drum Major, and one Fife Major, and the necessary number of non-commissioned officers. In time of war or insurrection, when new levies are drafted into said regimental companies or regiments, as hereinafter provided, to each company of infantry, light infantry, and riflemen, there shall be one Captain, one first Lieutenant, one second Lieutenant, and one third Lieutenant, five Sergeants and four Corporals; to each company of artillery there shall be one Captain, one first Lieutenant, one second Lieutenant, and one third Lieutenant, five Sergeants, four Corporals, and three Drivers; to each company of cavalry there shall be one Captain, one first Lieutenant, one second Lieutenant, one third Lieutenant, five Sergeants, four Corporals, one Saddler, one Farrier, and one or more Trumpeters.

Sec. 14. Whenever the office of Major General, Brigadier General, Colonel, Lieutenant Colonel, Major-commandant, or Captain, shall be vacant, or such officer be sick or absent, the officer next in rank shall command the division, brigade, regiment, battalion or company, as the case may be, until the vacancy be supplied; and whenever the office of Adjutant General and Quarter-master General shall be vacant, the duties thereof shall be performed by the senior Assistant Adjutant,

and senior Assistant Quarter-master General, until the same be filled.

Sec. 15. Whenever a company belonging to a regiment or regimental company, filled up by drafts or levies shall have neither commissioned nor non-commissioned officers, the commanding officer of the regiment to which such company belongs, shall appoint suitable persons of said company to be non-commissioned officers of the same ; and the senior non-commissioned officer of a company without officers shall command the same, except upon parade, and except as provided in the following section.

Sec. 16. Whenever any such company shall, from any cause, be without officers, the commanding officer of the regiment to which such company belongs, may detail some officer of the staff, or of the line of the regiment, to train and discipline said company, until some officer shall be elected or appointed by the Commander-in-Chief, as provided in the nineteenth section, and such officer, so detailed, shall have the same power and authority, and be subject to the same liabilities, as if he were Captain in said company ; and he shall keep the records of the Company.

*Of Elections and Appointments of Commissioned and Non-commissioned Officers.*

Sec. 17. The officers of the line and general staff of the militia shall be elected as follows, to wit : Division Inspector, Adjutant General, Quarter-master General, Commissary General, Pay-master General, Surgeon General, Purveyor General of Hospitals, by the General Assembly : the officers of regimental companies, as by their charters is or may be provided ; Brigadier Generals upon the nominations of the Colonels, Lieutenants Colonels and Majors of their respective brigades, by the General Assembly ; the Major General, upon the nomination of the several Brigadier Generals, by the General Assembly ; Brigade Inspectors and Brigade Quarter-masters by the General Assembly, upon the nomination of their respective Brigade Generals ; or, if there be no such nominations, or improper nominations, the above offices shall be filled by the General Assembly ; aids to the Commander-in-Chief shall be appointed by the Commander-in-Chief ; aids and military secretary of the Major General, by the Major General ; aids to



the Brigadier Generals, by the respective Brigadier Generals; Adjutants, Pay-masters, Quarter-masters, and Chaplains of regiments, by the respective Colonels; Surgeons and Assistant-surgeons of regiments, by the respective Colonels, with the approval of the Surgeon General. *Provided, however*, that the General Assembly shall, for the year 1843, elect the Major General and the Brigadier Generals, who shall hold their commissions until the first Tuesday of May, 1844, and until their successors are qualified to act. *And provided further*, that the Commander-in-Chief shall issue commissions agreeably to the provisions of this act, to all the officers of such chartered companies now existing, who may accept the provisions of this act as aforesaid.

Sec. 18. Any person elected Major General, shall be forthwith notified of his election by the Secretary of State; and shall, within twenty days after such notice, signify to the Secretary his acceptance of said office, or shall be considered as having declined.

Sec. 19. Whenever any regimental company is filled up by drafts or otherwise to a regiment, it shall consist of eight companies of sixty men each, and the Commander-in-Chief shall have power to appoint a sufficient number of commissioned officers therefor, from such regimental companies; and in case of such filling up of regimental companies, the Captains of the respective companies therein shall have power to appoint a sufficient number of non-commissioned officers for their respective companies.

Sec. 20. No officer, non-commissioned officer, or private shall be arrested on any civil process, while going to, or returning from, or remaining at any place which he shall have been ordered to attend, for the election of any military officer, or the performance of any military duty.

#### *Of Commissions.*

Sec. 21. All commissions for officers shall be signed by the Commander-in-Chief, and countersigned by the Secretary of State, and shall be for the term of five years, except in case of regimental companies already chartered, who shall be governed as to the returns of their officers elected, and terms of the commissions of their officers by their charters; warrants for regimental, staff, and non-commissioned officers, shall be

signed and issued by the Colonels of the regimental companies or the regiments respectively; and of non-commissioned officers of companies, by the commander thereof.

Sec. 22. All commissioned officers of the same grade shall take rank according to the respective dates of their commissions; and when two or more of the same grade bear an equal date, their rank shall be determined by lot, to be drawn by them before the commanding officer of the division, brigade, regimental company or regiment, company or detachment, or the President of a court martial, as the case may be. The day of election or appointment of any officer shall be the date of his commission; and whenever he shall be transferred to another corps or station of the same grade, the date of his original commission or appointment shall be the date of his commission: *Provided, however*, that the first commissions issued under this act to officers of companies who shall within sixty days from and after the rising of this General Assembly voluntarily accept the provisions of the same, shall, for the purpose of rank and command, bear date on the same day.

Sec. 23. Whenever any officer shall lose his commission, he shall be entitled to a duplicate commission of the same grade and date, on his affidavit made before a justice of any court in this State, on application to the Commander-in-Chief.

Sec. 24. All commissions shall be delivered to the Adjutant General, and by him to the persons for whom they are intended.

Sec. 25. All brigade or field officers to whom commissions shall be sent or delivered, by the Adjutant General, shall signify to him their acceptance or refusal of such office, within thirty days after the receipt of the commissions. In case the person elected shall refuse his commission, or neglect to return any answer, that office shall be deemed vacant, and a new election may take place.

#### *Officers, how qualified.*

Sec. 26. Each commissioned officer, before he shall enter on the discharge of the duties of his office, shall take and subscribe the following oath and declarations, before some Justice of the Peace, or other magistrate, or town clerk: on the back of each commission the following form of the oath shall be printed, to

wit: "I,           do solemnly swear, (or affirm,) that I will bear true faith and allegiance to the State of Rhode-Island and Providence Plantations; that I will support the Constitution and laws thereof, and the Constitution and laws of the United States; and that I will faithfully and impartially discharge all the duties incumbent upon me as           to the best of my abilities and understanding, according to the laws of this State, and of the United States; so help me God." (Or, "this I promise on the pains and penalties of perjury:") On the back of each commission, the following form of certificate shall be printed, and signed by the person before whom such officer shall be qualified, to wit: "This may certify, that           commissioned within named, appeared before me this           day of           A. D.           , and took and subscribed the oath and declarations prescribed by the laws of this State, before me." (Signed, &c.)

*Officers, how discharged.*

Sec. 27. Any officer who shall have holden any commission or commissions in the militia of this State during the term of five years in succession, and faithfully performed the duties of the same, shall be honorably discharged, on his application, to the Commander-in-Chief, and shall forever after be exempt from the performance of military duty, except in time of war, invasion of, or insurrection, riot or tumult within this State: and no officer shall be discharged, unless on his own application, or unless in cases hereinafter provided.

Sec. 28. All resignations shall be in writing, and shall be approved and certified as follows: the resignation of the Major General shall be made to, and approved by the Commander-in-Chief; the resignation of a Brigadier General, shall be approved by the Major General; the resignation of a field officer shall be approved by the Brigadier General of the brigade to which such field officer belongs; and the resignation of a Captain or subaltern officer, shall be approved by the commanding officer of the regimental company or regiment to which such Captain or subaltern shall belong. And the Major General, Brigadier General, or commanding officer of a regimental company or regiment who shall approve of any resignation aforesaid, shall certify the same to the Commander-in-Chief, who shall have the power to allow or disallow thereof, at his discretion. And no officer shall be considered as having resigned

his commission, unless the same shall have been approved and certified as aforesaid, and allowed by the Commander-in-Chief.

*How Armed and Equipped.*

Sec. 29. Each chartered regimental company of light infantry, grenadiers, and riflemen, raised at large, shall be furnished with muskets or rifles, and every such company of cavalry, with sabres, belts, and pistols, and every such company of artillery with muskets, if applied for, and with swords and belts, on application to the Quarter-master General, and on delivering to him a sufficient bond, signed by the officers of such company, for the safe keeping and return of the same when required by the Commander-in-Chief, and producing to him satisfactory evidence that a suitable armory or place of deposit for such muskets or rifles has been provided in the town or city within which said company is situated; which arms so furnished shall be carefully kept for the use of such company for military purposes only. The Commander-in-Chief may, from time to time, require any officer to examine the armory or place of deposit provided as aforesaid, and report to him the condition thereof, and of the arms therein deposited. Whenever any arms are furnished as aforesaid, to any regimental company formed from different towns, the same shall be deposited in the town within which the greatest number of said company may vote to establish their armory, or place of deposit.

Sec. 30. Each regimental company of artillery shall be provided by the Quarter-master General or officer acting as such, with two good brass field pieces, of such calibre as the Commander-in-Chief shall direct, with carriages and apparatus complete; with an ammunition cart, forty round shot, forty rounds of cannister shot, tumbrils, harness, implements, laboratory and ordnance stores, which may, from time to time, be necessary for their complete equipment for the field; and a quantity of powder, annually, not exceeding one hundred pounds, to be expended on days of inspection and review, and in experimental gunnery: and the commanding officer of each regimental company shall be accountable for the preservation of the pieces, apparatus and ammunition aforesaid, and for the proper expenditure of the ammunition.

Sec. 31. In case of new levies in time of war or insurrec-

tion, the Commander-in-Chief shall arm, equip and furnish them out of the States Arsenal.

*Discipline, Inspection, Training and Review.*

Sec. 32. The system of discipline and field exercise, from time to time ordered for the army of the United States, shall be the system of discipline and field exercise for the militia of this State.

Sec. 33. Each commanding officer of a regimental company shall order out his company on the third Monday of May, annually, at nine o'clock in the forenoon, for inspection and drill, and shall keep his company under orders at least until four o'clock, P. M., and longer if he deems it necessary; and he shall inspect, examine, and take an exact account of the equipments of his men, note all delinquencies of appearance and deficiencies of equipments, and correct his roll, in order that a thorough inspection may be made of all the militia in this State: and every commanding officer of a regimental company shall faithfully train and discipline his company on said day, as well as inspect them.

Sec. 34. The active militia of this State shall in the month of September or October of each year, meet by brigade, for the purpose of training, disciplining and improving them in martial exercises; the places of brigade rendezvous shall be appointed by the brigadier general, and the days of the brigade rendezvous by the Major General. The trainings above mentioned are to be included in the number of trainings prescribed by the charters of the regimental companies: *Provided, however,* that the Major General shall have power to divide any brigade, for the purpose of the brigade training, in such manner as from their position the convenience of the regimental companies therein may from time to time require.

Sec. 35. Each brigade, when in the field, shall take rank according to its number, beginning at the lowest number as highest in rank; and each regimental company shall form according to the rank of the officers present commanding them, having due regard to the arm of the service to which said corps belong, and when such regiment is filled up by drafts or levies, according to the number of each regiment; and when distinct corps shall parade, join, or do duty together, the senior officer present shall command, without regard to corps.

Sec. 36. Every commanding officer when on duty is hereby authorised to ascertain and fix necessary bounds and limits to his parade, not including any road on which people travel, so as to obstruct the same or prevent their passing, within which no spectator shall have a right to pass or enter, without leave from such commanding officer, and the commanding officer of any battalion or regimental company may put under guard every person who shall encroach upon the parade ground ; and also any spectator or bystander who shall abuse, molest, or strike any one when on parade or under arms.

Sec. 37. The brigadier generals, brigade inspectors, and brigade quartermasters, shall attend the inspections and reviews of their respective brigades ; shall inspect their arms, ammunition, and equipments ; superintend their exercises and evolutions, and introduce and enforce the system of discipline required by law and by the orders of the commander-in-chief.

Sec. 38. No non-commissioned officer or private, shall unnecessarily, or without orders from his superior officer, come on to any place of parade, with his musket, rifle, or pistol loaded with balls, slugs, shot, or other dangerous substance, or shall so load the same while on parade.

Sec. 39. No officer, non-commissioned officer, or private, shall be compelled to do military duty on any day appointed for town, city or ward meetings, or for the election of any civil officer, in the town or city in which he shall reside, except on the third Monday in May, unless it be in case of invasion, insurrection, riot or tumult threatened ; and no doings of any town, city, or ward meeting, and no election of civil officers, holden on the third Monday in May, shall be valid, or of any legal force.

Sec. 40. Nothing herein contained shall prevent any company from meeting at any time for drill, funeral, or any other voluntary duty, nor to impair the corporate privileges of any chartered company, nor any lawful articles of agreement adopted by any company so far as relates to those who have voluntarily signed the same, not inconsistent herewith.

Sec. 41. All general orders shall be distributed by the Adjutant General ; all division orders by one of the aids of the Major General ; all brigade orders, by the Brigade Major ; all regimental orders, by the Adjutant ; and company orders, by any non-commissioned officer, or private, when required by the

commanding officer. *Provided however*, that if the Adjutant General or Brigade Major shall be sick, absent or unable to distribute such orders, or either of such offices shall be vacant, the orders may be distributed by any other officer detailed for that purpose by the officer issuing the orders.

Sec. 42. The commander-in-chief shall have power to order out the whole or any part of the militia, as may seem to him expedient, for review, the performance of escort, and other duties.

#### *Rolls and Returns.*

Sec. 43. A fair and correct roll of each regimental company shall be kept by the adjutant, with the state of the arms and equipments belonging to each man ; and said officer shall keep an orderly book of all orders received or issued, and all accounts of all fines, from whom received, and when and for what cause.

Sec. 44. Each commanding officer of a regimental company, shall, on or before the fifteenth day of November, in each and every year, make out a fair and correct roll of his company, containing the christian and surname of all the men belonging thereto, alphabetically arranged, and place opposite the name of each, the equipments and the quality of equipments of each, whether good or bad, and which of said men had done military duty within the year, for one or more days, and on what days, and at what trainings ; and shall on or before said first day of November, deliver the same to the Brigade Inspector. The brigade majors and inspectors shall make a like return of the state of their respective brigades to the Adjutant General, annually, on and before the 20th day of December. And the Adjutant General shall make duplicate abstracts of the active militia, one to be delivered to the commander-in-chief, who shall present the same to the General Assembly, and the other to be delivered in the month of January, to the Major General. Each commanding officer of a regimental company shall make a like return under oath to the General Treasurer, on or before the first day of January in each year, of all the members of his company, who have been duly equipped and have done military duty according to law for at least four days in the year preceding the time of such return.

Sec. 45. The Adjutant General shall furnish blank forms of rolls and of the various returns that may be required, at the expense of the State ; and explain the principles on which

they are to be made out ; and the roll shall be kept up as prescribed.

Sec. 46. Every regimental company shall have an appropriate uniform. Every officer of the line, and every staff officer, shall provide himself with a uniform complete, which shall be such as the commander-in-chief shall prescribe, and subject to such limitations, restrictions, and limits, and alterations as he may order.

Sec. 47. Every officer, non-commissioned officer and private, shall hold his uniform, arms, ammunition, and equipments free from all suits, distresses, executions, or sales for debt or taxes.

*Of Drafts, and calling the Militia into service.*

Sec. 48. Whenever in case of war, invasion, threatened invasion, or insurrection, the commander-in-chief shall deem it necessary to increase the active militia of this State, he shall have power to order a draft or levy to be made from the enrolled militia in any town or city, into any or all of the regimental companies thereof, of such number of men as he may judge the exigency of the case requires, or if there be no regimental company in such town or city, may order them into any of the regimental companies of the brigade in the limits of which such town or city may be situated, directing his order therefor to the town council of the town, or to the mayor and aldermen of the city, in which such draft is to be made.— Whenever such order is made and directed as aforesaid, it shall be the duty of the town council, or mayor and aldermen, to appoint a time and place of parade for the enrolled militia in each town or city, and to order them to appear at the time and place, either leaving a written notice or orally, and then and there proceed to draft as many thereof, or to accept as many volunteers, as is required by the commander-in-chief ; and the mayor and aldermen or town council shall notify the commander-in-chief forthwith that they have performed the aforesaid duty. Whenever the said regimental companies shall be filled up by drafts or levy as aforesaid, the commander-in-chief may arrange the regiment so filled up into companies as he may think fit, and commission the officers of the same as provided in the 19th section.

Sec. 49. Whenever any invasion of the State, or any in-



surrection, riot, or tumult shall be made in any part of the State, the commander-in-chief shall call out the militia or any part thereof, as he may deem expedient or necessary, to suppress or repel the same; and he may order out the division or any brigade, brigades, regimental companies, regiments, companies or company, or any portions of the same, or cause any number of men to be detached or drafted from them, and cause officers to be detailed, which with those attached to the troops, shall be sufficient to organize the forces; and if such invasion or insurrection, or any imminent danger thereof, be so sudden in any part of the State, that the commander-in-chief cannot be informed, and his orders received and executed in season to suppress or repel the same, the Major General may order out the division or any part thereof, as the commander-in-chief might do; and when any troops are in the field for such purposes, the senior officer of said troops, present, shall command until the commander-in-chief, or some officer detailed by him, shall appear to take the command.

Sec. 50. Whenever any draft from the militia into the service of the United States, shall be ordered, the non-commissioned officers and privates, except so many as shall voluntarily offer to serve, shall be drafted by lot, from the company, and the officers detailed from the roll.

Sec. 51. If any company without officers be ordered to march, or any draft or detachment therefrom ordered, the commanding officer of the regiment to which said company belongs, shall detail some officer to command them, who shall have the same authority to command them to appear, and to command them in the field, and to make any draft or detachment therefrom, as though he were captain of said company, and shall have the same responsibility.

Sec. 52. Every officer who, when ordered to march to the place of rendezvous, shall unnecessarily neglect to do so, or who shall otherwise disobey any lawful order, shall be punished as is hereinafter provided; and every soldier ordered out, drafted or detached, who shall not appear at the time and place appointed, armed and equipped as commanded, shall be punished as hereinafter provided; and each non-commissioned officer and private shall take with him provisions for at least three days, when so ordered.

Sec. 53. When in any county in this State, there shall be

any tumult, riot, mob, or any body of men acting together, with intent to commit felony, to offer violence to persons or property, or in any other way to resist the laws of the State by force of arms, or by violence, or when any of said acts shall be threatened, and the fact made to appear to the commander-in-chief, or to the sheriff of said county, or to either of the justices of the court of common pleas in such county, or, if in the city of Providence, to the mayor of said city in the first instance, or in his absence, to the board of aldermen, the commander-in-chief shall issue his order, or such justice, sheriff, mayor, or board of aldermen, shall issue his or their precept, properly signed, directing the commanding officer of the division, brigade, regimental company or company, as the cause may be, to order out his command, or any part of the same, to suppress such riot, tumult or mob, and to prevent the perpetration of any such felony, or act of unlawful violence.

Sec. 54. The officer to whom any such order or precept shall be directed, as named in the foregoing section, shall forthwith order out the troops therein required, to parade at the time and place appointed; and if he shall refuse to obey such order or precept, or if any officer under his command shall refuse to obey an order issued under such order or precept, he shall be punishable as hereinafter provided; and any non-commissioned officer or private, who shall neglect or refuse to appear at the time and place of parade, or to obey any lawful order issued in such case, shall suffer the penalty hereinafter provided.

*Surgeons and Assistant Surgeons.*

Sec. 55. No surgeon, or assistant surgeon, nor any physician, shall take any gratuity whatsoever from any person, for a certificate for inability to perform military duty on account of bodily infirmity; and it shall be the duty of such, to examine critically, the cases of all applicants for such certificates, and not to grant any certificate for bodily infirmity or inability unless such infirmity or inability be, beyond all doubt, such as to render the applicant unable to perform military duty; and any surgeon, assistant surgeon, or physician who shall violate the provisions of this section, shall be liable to be punished as hereinafter provided.

Sec. 56. Whenever any regiment may be without a surgeon,

or assistant surgeon, or when any person may claim to be exempt from military duty by reason of bodily infirmity or disability, and shall not reside within ten miles of the surgeon or assistant surgeon of the regiment, any respectable physician within said distance, may grant him a certificate, subject to the restrictions contained in the preceding section ; and the commanding officer of any regimental company is authorised to exempt any person of his company from military duty, on the presentation of such certificate from the surgeon or assistant surgeon, or a physician as aforesaid, either for a longer or shorter period, not exceeding one year, as in the judgment of the commanding officer, the case may demand.

*Of Fines and Penalties of Officers, and of the Manner of Enforcing the same.*

Sec. 57. All offences committed by general, field, commission, and staff officers, and surgeons, whether consisting in disobedience of orders, or unofficer-like conduct while on duty or during any day appropriated to military exercise, inspection or review, or in neglect or violation of any duty imposed upon them by law as officers of the militia, and whether committed in times of quiet, or of invasion, insurrection, riot or tumult, shall be punished by courts martial, according to the usage and practice of war, by a fine not exceeding five hundred, nor less than twenty dollars ; by imprisonment not exceeding six months ; cashiering, with or without disability of ever after holding any military office in the State ; or reprimand ; either or all with costs at the discretion of the court ; said fines and costs to be collected for the use of the State by warrant of distress, under the hand and seal of the president of the court martial imposing the same, directed to the sheriff of the county in which the convicted officer shall reside, who shall pay over the fine so collected to the general treasurer. The president of the court martial which shall impose upon any officer the penalty of imprisonment, shall by a mitimus in common form, under his hand and seal, have power to commit the convicted officer to the jail of the county in which he shall reside, for the term of his sentence ; and all sheriffs, deputy sheriffs and jailors, are directed to govern themselves accordingly.

*Other Fines and Penalties.*

Sec. 58. The ordinary fines and penalties of non-commis-

sioned officers and privates in every regimental company, will be regulated by the charter of such company. And the fines for non-attendance at any brigade training, shall be six dollars, to be recovered in the manner prescribed in the charter of the regimental company to which such non-commissioned officer or private belongs, for non-attendance at a company training.

Sec. 59. In case of war, invasion, threatened invasion, insurrection, mobs, riot or tumult, any militia soldier below the rank of a commissioned officer ordered out, volunteered, detached or drafted, who shall neglect to appear at the time and place designated by his commanding officer, or in case of the enrolled militia, at the time and place designated by the town council or mayor and aldermen, or to place himself under the command of the officers of the regimental company into which he may have been drafted or have volunteered, shall forfeit the sum of one hundred dollars, or be imprisoned three months, either or both, at the discretion of the court who shall try such offender; said punishment to be enforced by indictment in the supreme court, or court of common pleas of the county in which the offender may reside; or in time of actual war may be otherwise dealt with as the articles of war then established may direct.

Sec. 60. Any assessor of taxes who shall neglect or refuse to perform the duty of preparing a list or roll of all persons liable to be enrolled in the militia within the limits of the town or city of which he is an assessor, or of placing the same in due time in the hands of the town or city clerk of such town or city for record and return, shall be individually liable for every such refusal or neglect to the penalty of fifty dollars, to be recovered by indictment in the supreme court, or court of common pleas, in the county in which the offence may be committed. Any town or city clerk who shall refuse or neglect to record said list or roll of names, or to make due return of the same to the Adjutant General, shall for every such refusal or neglect, be liable to the penalty of fifty dollars, to be recovered by indictment as aforesaid.

Sec. 61. When information is required by persons lawfully ordered or authorised to make enrollment of those liable to do military duty, or by those acting under them, any person refusing to give information of his name or age, or giving false information concerning the same; and also any keeper of a tav-

ern or boarding house, any parent, master or mistress of a family refusing to give the required information, or giving false information, shall forfeit and pay the sum of twenty-five dollars, to be recovered by indictment for the use of the State, before the supreme court, or the court of common pleas of the county in which such offence may be committed.

Sec. 62. Any spectator or bystander who shall abuse, molest, or strike any commissioned or non-commissioned officer, or private, when on parade or under arms, shall in addition to all other remedies or penalties by law provided, forfeit and pay the sum of twenty dollars; to be recovered, if a field or staff officer, upon the complaint, and to the use of such field or staff officer; and if a company officer, whether commissioned or non-commissioned, or a private, upon the complaint of the commanding officer of the company and to the use of the company to which such officer or private belongs, by ordinary complaint and warrant before a justice of the peace. Every spectator or bystander who shall intrude upon the bounds and limits of parades, shall pay the sum of ten dollars, to be recovered upon complaint of the officer in command at the time of such intrusion, in like manner as last aforesaid, to and for the use of the State.

Sec. 63. Any physician or assistant surgeon who shall take any gratuity whatsoever, from any person for a certificate for inability to perform military duty on account of bodily infirmities, or shall grant any such certificate unless after critical examination, and unless such infirmity or inability be beyond all doubt such as to render the applicant unable to perform military duty, shall be liable to the penalty of fifty dollars, to be recovered by indictment in the supreme court, or court of common pleas for the county in which such offence may be committed.

#### *Courts Martial.*

Sec. 64. General, field, commission and staff officers, shall be subject to trial by court martial, according to the usage and practice of war, for disobedience of orders, unofficer-like conduct while on duty, or during any day appropriated to military exercise, inspection or review and for neglect or violation of any duty imposed upon them by law, as officers of the militia; which court martial shall consist of not less than five, nor more than seven members; and the senior officer, who

shall always be of a rank superior to that of the officer on trial, shall preside. The court martial for the trial of an officer under the grade of a field officer, shall be appointed by the commanding officer of the brigade to which he belongs; for the trial of an officer of the grade of field officer, by the commanding officer of the division; and for the trial of a general officer, by the commander-in-chief. In every court martial there shall be a judge-advocate, who shall discharge the duties of that office according to the usage and practice of courts martial; and no other person shall be admitted to prosecute or defend an arrested officer. Whenever a court martial shall be ordered, the order shall designate the time and place of holding the same, the name of the officer to preside, and the names and ranks of the other officers, of which the court is to be composed. *Provided*, that no court martial shall be called without the approval of the commander-in-chief, and no expense of any court martial shall be paid unless allowed by the general assembly. If the court shall be ordered by the commander-in-chief, the orders shall be as follows to wit :

*State of Rhode-Island, sc.*

#### **GENERAL ORDERS.**

" A general court martial is ordered to assemble at                    on the                    day of                    A. D.                    for the trial of such persons as may be brought before them, to consist of                    members to be taken from the division to wit; the Major General, Brigadier General or Generals,                    Colonel or Colonels Lieutenant Colonel or Colonels. Major General will preside. The Adjutant of the                    regimental company or regiment will furnish an Orderly Sergeant, to attend and execute the orders of the court." (To be signed by the commander-in-chief, or by the Adjutant General by his order.) If a court martial be ordered by the Major General the orders shall be as follows to wit :

*State of Rhode-Island, sc.*

#### **DIVISION ORDERS.**

A general court martial of the division will assemble at on the                    day of                    A. D.                    for the trial of such persons as may be brought before them, to consist of members, to wit:                    Brigadier-General or Generals, Colonel or Colonels                    Lieutenant-Colonel or Colonels

Major or Majors. Brigadier-General will preside. The Adjutant of the regimental company or regiment will furnish an orderly sergeant to attend and execute the orders of the court. (To be signed by the Major-General, or by the division-inspector by his orders.) If the court be ordered by a Brigadier-General, the orders shall be as follows, to wit:

*State of Rhode-Island sc.*

**BRIGADE ORDERS FOR THE BRIGADE  
OF RHODE-ISLAND MILITIA.**

A general court martial for the brigade will assemble at on the day of A. D. for the trial of such persons as shall be brought before them, to consist of members, so wit: Colonels, Lieutenant-Colonels Majors, (and if any) Captains, Subalterns. Colonel will preside. The Adjutant of regimental company or regiment will furnish an orderly sergeant to attend and execute the orders of the court. (To be signed by the Brigadier-General, or the Brigade-Major, by his order.) For a general court martial, the Adjutant General shall notify all general officers, and give notice of the other officers detailed, to the division-inspector or brigade-majors, who shall notify said officers, and make return thereof to the Adjutant-General. In a division court martial, the division-inspector or an aid-de-camp under the direction of the Major-General, shall notify the general officers, and give notice of the other officers detailed, to the respective Brigade-Majors, who shall notify the field officers required of their brigades, and make return thereof to the Major-General. For a brigade court martial, the Brigade-Major shall notify the field officers required to serve on said court martial, and notify the respective adjutants of the other officers detailed; and the adjutant of each regimental company or regiment shall notify them, and make return thereof to the Brigade-Major; and if the officer to be tried be a general officer, he shall be furnished with a copy of the order for said court, and a copy of the charges against him by the Adjutant-General, or by the division-inspector, or by a brigade-inspector, as the Commander-in-Chief shall direct, thirty days before the sitting of said court, who shall make return thereof, with the names of the officers composing said court; and the officer to be tried, if under the

rank of a field officer, shall be furnished with like copies, twenty days before the sitting of the said court, by a Brigade-Major, or inspector, or by the adjutant of the regimental company or regiment to which he belongs, as the officer ordering the court martial shall direct; who shall return the same, and the names of the officers composing the court, to the judge-advocate of the court; and it shall be the duty of the said judge-advocate to summon, or cause to be summoned, such witnesses on the part of the State, as may be necessary, by subpoena signed by the officer ordering the court, or by the president thereof, or by said judge-advocate; and the accused shall be entitled to like process, to procure the attendance of his witnesses; which process shall be served by the judge-advocate, or by any disinterested person deputed by him. All charges shall be made out in due form, by way of complaint, and signed by the party complaining, and addressed to the officer whose duty it is to order the court, specifying the act or neglect of which the accused is supposed to be guilty, and praying due process, before said officer shall order a court martial for the trial of the officer accused. The members of the court shall appear in full uniform, and before they enter upon the trial of any person accused, shall take the following oath, to wit: "You swear [or affirm] that you will truly try and determine according to the evidence given in court, the matter depending between this State, and the officer [or officers] now to be tried; and that you will not divulge the sentence of the court, until the same has been approved or disapproved pursuant to law; and that you will not, at any time, disclose the vote or opinion of any member of this court, unless required to do so in due course of law. So help you God." Or this affirmation you make and give upon the peril of the penalty of perjury. And the foregoing oath shall be administered by the judge-advocate; but all other oaths which it may be necessary to administer, during the continuance of the court, may be administered either by him, or any general or field officer.

Sec. 65. There shall be appointed by the officer ordering the court-martial, a judge-advocate for each court-martial, who shall perform all the duties of that office, and who shall take the following oath, to wit: "You swear [or affirm] that you will not, at any time whatever, disclose the vote or opinion of any member of this court-martial, unless required by due



course of law, nor divulge the sentence of the court, till the same has been approved or disapproved according to law; and that you will faithfully and impartially discharge the duty of Judge-Advocate, according to the best of your abilities, so help you God." Or, this affirmation you make and give upon the peril of the penalty of perjury. And said oath may be administered by a judge of any court, or any justice of the peace in the State; and a certificate thereof shall be made on the warrant of the Judge-Advocate, by the person administering the oath.

Sec. 66. If, on trial, the accused shall object to any one, or more members of the court, he shall state the ground of his objection, and if it appear to the court sufficient, the member or members objected to, shall leave their seats; and if the numbers remaining be less than five, the court shall be adjourned for a reasonable time, that the officer ordering the court may detail others to supply the place or places vacated by such member or members. No sentence of a court-martial shall be carried into effect, unless passed by the concurrent vote of two thirds of the court, and approved by the Commander-in-Chief. In case an officer under arrest, shall refuse or neglect to attend a court-martial, according to orders and notice given him, he shall, by said court, be sentenced to pay a fine not exceeding two hundred dollars, and be cashiered; with disability of ever after holding any military office in the State; unless he be prevented from attending such court-martial by reason of sickness, or some other reasonable cause; in which case the court shall have power to adjourn; and notice thereof shall be given to the arrested officer, by the Judge-Advocate, at least ten days before the day to which the court shall have been adjourned. In all cases in which a fine and costs or imprisonment shall be awarded by a court-martial, and the sentence of such court shall be approved by the Commander-in-Chief, and the President of such court shall die, be discharged or promoted, without having issued a warrant of distress or mittimus for such fine and costs or imprisonment, it shall be the duty of the member of said court next in rank to said President, to issue said warrant or mittimus.

Sec. 67. If any witness duly summoned shall refuse to obey such summons, he shall be committed to the jail in the county in which he resides, by a warrant from the president

of the court, directed to the sheriff, or a deputy-sheriff of said county, there to be held at his own expense, until he will conform, and give evidence in the case, or until discharged by due course of law. All witnesses summoned on the part of the State, and the Judge-Advocate or other person for summoning them shall, for travel and attendance, have the same fees that are allowed in civil causes, to be taxed by the President of the court; expenses shall be paid to the Judge-Advocate by the State, and when received by him, be paid over to the persons to whom they are due. If the sentence of the court be against the accused, and the same shall be approved by the Commander-in-Chief, the said expenses shall, by warrant under the hand and seal of the President of the court, directed in manner aforesaid, be collected of the delinquent, and paid into the general treasury. The members and officers of said court shall be allowed nine cents per mile travel to and from the place of holding said court, and one dollar for each day during its sitting; and there shall be allowed to the person in whose house said court shall be held, not exceeding two dollars per day, in full of all expenses for room-rent, fuel and lights; and which shall be paid from the State treasury, after the same shall have been allowed by the General Assembly. The Judge-Advocate shall be allowed twenty-five cents for each legal page of the copy of the proceedings and records of the court martial, to be taxed and paid in the same manner. The Commander-in-Chief shall have power to approve or disapprove all sentences passed by courts martial, and mitigate or remit any punishment or punishments awarded by them or any part thereof; and the record of all proceedings and sentences of courts martial, and of the approval, mitigation or remission by the commander-in-chief, shall be deposited by the respective judge-advocates, in the office of the Adjutant General.

*Board of Officers and Courts of Enquiry.*

Sec. 68. The commander-in-chief, whenever in his opinion it shall be necessary, may call boards of officers, for settling military questions, or for other purposes relative to good order and discipline.

Sec. 69. General, division, and brigade courts of enquiry, shall consist of three officers, and a judge-advocate, to be appointed by the commander-in-chief; and they may be ordered and organized in the like manner, as courts martial, and under

the same regulations, may examine into the nature of any transaction, or any imputation, or accusation against any officer, made by an inferior.

All vacancies shall be filled as in courts martial.

The judge-advocate shall administer to each of the officers composing a court of enquiry the following oaths or affirmations ;

You, A. B., do swear, or affirm, that you will well and truly examine, and enquire into the matter now before you, without fear, favor, partiality, prejudice, or hope of reward. So help you God. Or, this affirmation you make and give upon the penalty of perjury.

After which, the president shall administer to the judge-advocate the following oath :

You, A. B., do swear that you will impartially record the proceedings of the court, and the evidence to be given in the case now in hearing. So help you God. Or, this affirmation you make and give upon the penalty of perjury.

Witnesses shall be summoned in the same manner, take the same oath, and be examined, and cross examined, by the parties in the same way, as on trials before courts martial ; but the court shall not give their opinions on the merits of the case unless specially required so to do. All the proceedings therein shall be recorded, and with the papers and documents used therein, authenticated and transmitted, by the judge-advocate, to the officer who ordered the court.

Sec. 70. The pay and fees of boards of officers and courts of enquiry shall be the same as in courts martial.

Sec. 71. All acts heretofore passed in relation to the militia of this State, which are inconsistent with the provisions of this act, shall be and the same are hereby repealed. *Provided however*, that the charters and corporate rights of the existing chartered companies of this State, who shall not accept the provisions of this act, shall be wholly unimpaired thereby ; and *provided further* that the rights of property of the existing chartered companies, who do accept the provisions of this act, shall in no court be impaired or affected thereby, and the corporate name of such company shall be retained in business transactions therewith, and that upon the repeal of this act, they shall be remitted to all the corporate rights and privileges heretofore by them enjoyed.